REMARKS/ARGUMENTS

Claims 1-33 were present for examination in the above-identified application. Claims 1-13,19,20,22,23 and 25-33 stand rejected and claims 14-18, 21 and 24 are objected to as depending from rejected base claims. By the present amendment claims 1-8, 24 and 27-31 have been canceled subject to applicants' right to continue the prosecution of the canceled claims in a continuation. Claims 9-23, 25 and 26 remain in the present application.

The drawings have been objected to under 37 C.F.R.1.84(p)(4) because of multiple use of reference characters 101,103 and 105. Accompanying this response is a Request for Approval of Drawing Changes. The Request proposes changing characters 101,103 and 105 in Fig. 3 to characters 104,106 and 108 respectively. Amendment is also requested for pages 12 and 13 of the specification for consistency with the proposed drawing corrections. The changes to Fig. 3 and pages 12 and 13 of the specification are believed to obviate the objection to the drawing.

Claim 9 stands rejected as anticipated by Wood et al., U.S. Patent 6,324,338. Applicants described and claimed method and apparatus relate to the provision of a service to subscribers to that service. In order to gain the benefits of the service, a subscriber must first apply to become a service member by providing certain information. This is described for example, from page 12, line 24 through page 15, line 3. As described, as a part of his or her request for service, the subscriber specifies an amount of storage and time duration for that storage to be allocated to the subscriber (client). Thereafter, the amount and time duration of allocated storage is applied to store data as requested in individual requests to store program media. For example, the subscriber may be allocated 1 GByte of storage at

sign up. Later, the subscriber identifies a media program to be stored by the system which requires a portion of the originally allocated 1 GByte, thus, reducing the amount of storage available from the originally allocated amount. From time to time the subscriber may be advised as to how much of his or her allocated storage is still available for use and be given the opportunity to add more allocated storage, perhaps for a cost.

Claim 9 has been amended for clarity. Claim 9, as amended, recites a step of receiving a request for media program service from a client and a step of allocating a predetermined amount of client available storage capacity to the client in response to the request for service. Claim 9, as amended, continues with receiving a request for storage of an identified media program followed by storing the media program and determining the amount of client available storage remaining after the identified program is stored.

Wood et al. discloses an arrangement for storing media programs in a fixed device such as a set top box. Wood et al. does not teach or suggest the step of receiving a request for media program service nor does it teach or suggest the step of allocating an amount of storage in response to the request for service. Instead, Wood et al. merely receives a request to store a program having specified criteria and using storage space to fulfill the request. If there is a parallel to the Wood et al. request for storage it is applicants second receiving a request step. Nothing shows the first step of receiving a request for service or the step of allocating storage in response to the first request. Because Wood et al. does not teach or suggest the first two steps of claim 9 as amended it does not anticipate that claim and the rejection is traversed. Rejected claims 10,11,12,13,19 and 20 are asserted to be allowable due to their dependency on

allowable claim 9. Claims 14-18 and 21, which also depend from claim 9 are merely objected to in the present Office Action.

Claims 10-13, 19-20 stand rejected under 35 U.S.C. 103(a) as unpatentable over Wood et al. in view of Shteyn, U.S. Patent 6,611,654. In rejecting claims under 35 U.S.C. § 103 the Examiner has the burden of establishing a prima facie case of obviousness. Three criteria must be met to establish such a case. First, there must be some suggestion or motivation to modify the reference. Second, there must be some reasonable expectation of success. Both the suggestion to make the combination and the reasonableness of the expectation must be found in the art. Third, the reference must teach all the claim limitations of the claims.

Claim 10 recites notifying the client of the amount of client available storage. The Examiner says with regard to claim 10 that Wood et al. does not directly disclose notifying the client of the amount of storage remaining, but since Wood et al. computes the amount of storage (before recording), it would be obvious to notify the client. There is no suggestion or motivation in Wood et al. to notify the client. In the Wood et al. system, there is no reason to notify the client because there is no teaching or suggestion as to what the client might do with the information. In view of the foregoing, applicant asserts that the 35 U.S.C. 103 rejection of claim 10 is traversed.

In rejecting claim 11, the Examiner states that Wood et al. does not offer additional storage capacity to the client, but that since Shteyn et al. has much storage capacity, offering such would have been obvious. Shteyn et al. does not allocate storage to the client ahead of usage, but instead merely uses storage capacity when requested to store a media program. There is no concept of pre-allocation. The client, at all times is pre-allocated all available storage in Shteyn et al. so offering additional capacity

is not suggested or motivated. Accordingly, applicant asserts that the 35 U.S.C. 103 rejection of claim 11 is traversed.

Claims 12 and 13 recite additional aspects of storage pre-allocation which are not taught or suggested by Wood et al., Shteyn et al., or their combination. Simply, neither reference pre-allocates storage so the fine points of such pre-allocation cannot be taught or suggested. The 35 U.S.C. 103 rejection of claims 12 and 13 is traversed.

Claim 20 additionally recites that additional storage is offered to the client after it is determined that an amount of storage needed to fulfill a request exceeds an amount of storage then allocated to the client. No such step is taught by either Wood et al. or Shteyn et al. Further, no such step is suggested because neither reference describes a system which needs such an offer. For this further reason, applicant asserts that the 35 U.S.C. 103 rejection of claim 20 is traversed.

Claim 22 stands rejected under 35 U.S.C. 102 as anticipated by Shteyn et al. The Examiner has indicated, however, that claim 24, which depends directly from claim 22 would be allowable if re-written in independent form. Claim 22 has been amended to include the limitations of claim 24 and thus, represents claim 24 in independent form. Claim 24 has been canceled. Applicant asserts that the amendment to claim 22 has placed that claim in allowable form.

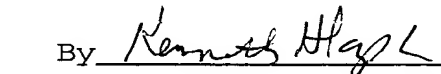
In view of the foregoing, applicant asserts that all claims 9-23 and 25-26 remaining in the application are allowable as they now stand.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, as by a check being in the wrong

amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully requested,

FITCH, EVEN, TABIN & FLANNERY

By 
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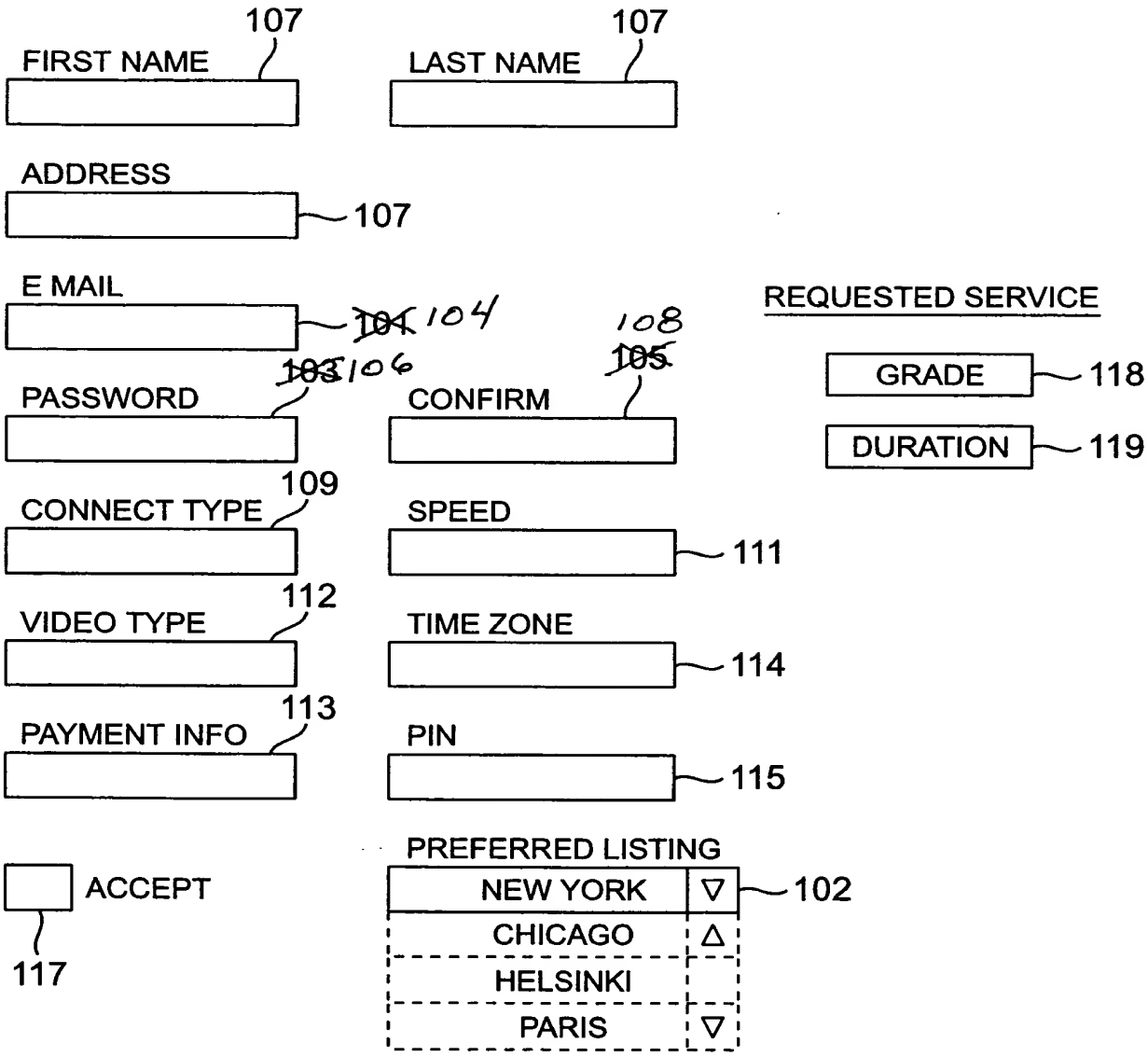

FIG. 3